

TRANSPORTATION CONFORMITY

Purpose

Transportation conformity ("conformity") is a provision of the Clean Air Act that ensures that Federal funding and approval goes to those transportation activities that are consistent with air quality goals. Conformity applies to transportation plans and projects funded or approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) in areas that do not meet or previously have not met air quality standards for ozone, carbon monoxide, particulate matter, or nitrogen dioxide.

Statutory References

SAFETEA-LU Section: 6011

Other: 42 USC §7506

Key Modifications

- Requiring MPOs to redetermine conformity of plan and TIP not later than 2 years after motor vehicle emission budgets are found adequate, the budgets are approved (if they had not yet been found adequate), or a Federal Implementation Plan (FIP) approval that establishes/revises budgets. [6011(a)]
- Requiring the frequency of conformity for plans and TIPs to be every four years, except when the MPO elects to update the plan or TIP more frequently, or when SIP actions trigger a new conformity determination. [6011(b)]
- Requiring conformity determination must be made for the last year of the transportation plan, but allowing, at the election of the MPO, and after consultation with the applicable air agency and public comment, conformity to be demonstrated for the longer of: (1) the first ten-year period of the plan, (2) the latest year the SIP has a budget, or (3) the year after completion of a regionally significant project that is in the TIP or one that requires approval before the subsequent determination. Such conformity determinations would need to be accompanied by a regional emissions analysis for the last year of the transportation plan and any year shown to exceed budgets by a prior analysis. [6011(c)]
- Allowing at the election of the MPO, after consultation with the applicable air agency and public comment, conformity to be demonstrated only through the end of the maintenance period once budgets are found adequate or approved for the second ten-year maintenance plan. [6011(c)]
- Providing that substitute TCMs can replace or be added to existing TCMs in approved SIPs, if (1) the substitute achieves equal or greater emissions reductions; (2) the schedule is consistent with existing TCM, or if the implementation date has passed, as soon as practicable, but no later than date reductions are needed; (3) adequate personnel, funding, and enforcement are demonstrated; and (4) the substitute is developed through a collaborative process that includes public comment and concurrence by the MPO, the air agency, and EPA. No substitution mechanism in the SIP is needed, and substitution doesn't require a new conformity determination or SIP revision. [6011(d)]

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- Defining lapse in Clean Air Act, and providing that a lapse will not occur until 12 months after an applicable deadline. [6011(e)]
- Providing that the Conformity SIP only needs to include consultation procedures, and enforcement and enforceability criteria and procedures to address 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c). [6011(f)]

Implementation

EPA is required to promulgate revised regulations, with DOT concurrence, to implement the changes in section 6011 not later than 2 years after the enactment of SAFETEA [6011(g)]

METROPOLITAN PLANNING

Program Purpose

The metropolitan planning process establishes a cooperative, continuous, and comprehensive framework for making transportation investment decision in metropolitan areas. Program oversight is a joint Federal Highway Administration/Federal Transit Administration responsibility.

Statutory References

SAFETEA-LU Section(s): 1107, 6001

Other: 23 USC 104, 134

Funding/Formula

The Metropolitan Planning Program is funded by a takedown of 1.25 percent from the Surface Transportation, Interstate Maintenance, Congestion Mitigation and Air Quality Improvement, Highway Bridge Replacement and Rehabilitation, and National Highway System programs, and by authorizations in the transit title of SAFETEA-LU. [1107, 3007]

Funds set aside from the highway programs are distributed to the States based on the population in urbanized areas or portion of urbanized areas in the State compared to all States. [104(f)(2)]

Continuing Provisions

Significant continuing provisions include:

- Local officials, in cooperation with the State and transit operators, remain responsible for determining the best transportation investments to meet metropolitan transportation needs.
- MPOs are responsible for adopting the long range transportation plan (Plan); Governor and MPO approve the transportation improvement program (TIP).
- The Plan and TIP remain separate documents.
- A 20-year planning perspective, air quality conformity, fiscal constraint, and public involvement established under ISTEA.
- Plan must contain: operational and management strategies to improve the performance of existing transportation facilities; investment and other strategies that provide for multimodal capacity increases based on regional priorities and needs; and proposed transportation and transit enhancement activities. [6001(i)]
- A Congestion Management System is still required in Transportation Management Areas (TMAs) (urbanized areas larger than 200,000 population).
- The planning process in TMAs requires DOT certification.

Key Modifications

Modifications to the metropolitan planning process include the following:

Metropolitan Planning in General

- MPOs will be encouraged to consult or coordinate with planning officials responsible for other types of planning activities affected by transportation, including planned growth, economic development, environmental protection, airport operations, and freight movement. [6001(g)]

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- The metropolitan planning process is to promote consistency between transportation improvements and State and local planned growth and economic development patterns. [6001(h)]
- Safety and security of the transportation system are separate planning factors that are to be considered during the metropolitan planning process. [6001(h)]
- A State will have 30 days to reimburse an MPO for planning expenses after request from the MPO for reimbursement

Long Range Transportation Plan (Plan)

- Will be updated every 4 years (unless the MPO chooses to do so more frequently) in non-attainment and maintenance areas. Attainment areas remain on a 5-year update cycle. [6001(i)]
- Intermodal connectors are added as a transportation facility. [6001(i)]
- Include a discussion of potential environmental mitigation activities along with potential sites to carry out the activities to be included. The discussion is to be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies. [6001(i)]
- Transit operators are to be included in the cooperative development of funding estimates for the financial plan section. [6001(i)]
- MPOs are required to consult with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning development of the Plan. [6001(i)]
- Representatives of users of pedestrian walkways, bicycle transportation facilities, the disabled are specifically added as parties to be provided with the opportunity to participate in the planning process. [6001(i)]
- The MPO is to develop a participation plan in consultation with interested parties that provides reasonable opportunities for all parties to comment. [6001(i)]
- To carry out the participation plan, public meetings are to be: conducted at convenient and accessible locations at convenient times; employ visualization techniques to describe plans; and make public information available in an electronically accessible format, such as on the Web. [6001(i)]
- The Plan is to be published and made available electronically, such as on the Web. [6001(i)]

Transportation Improvement Program (TIP)

- Will be updated every 4 years. [6001(j)]
- Will contain: priority list of projects and strategies for 4 years; financial plan; and descriptions (type of work, termini, length, etc.) of each project in the TIP. [6001(j)]
- Investments in pedestrian walkways and bicycle transportation facilities are to be included in the published annual listing of projects. [6001(j)]

Transportation Management Areas (TMAs)

- Must be certified not less than once every 4 years. [6001(k)]
- The phase-in schedule for compliance with the congestion management system may not be sooner than 1 year after identification of a TMA. [6001(k)]

Implementation

Implementation of the modifications to statewide and metropolitan planning processes will be in accordance with the following:

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- The Secretary will issue guidance on a schedule for implementation of the changes made to the transportation planning process.
- State and MPOs will not be required to deviate from their established plan and program update cycles to implement these changes.
- State or MPO plan or program updates shall reflect the changes beginning July 1, 2007.

Federal Share

The Federal share is 80 percent, subject to the sliding scale adjustment in 23 USC 120(b).